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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,832	11/17/1999	CLEMENT LAWSON	2870/192	5091

26646 7590 12/18/2001

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EXAMINER

BERMAN, ALYSIA

ART UNIT	PAPER NUMBER
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1619

DATE MAILED: 12/18/2001

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/441,832

Applicant(s)

LAWSON ET AL.

Examiner

Alysia Berman

Art Unit

1619

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 December 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

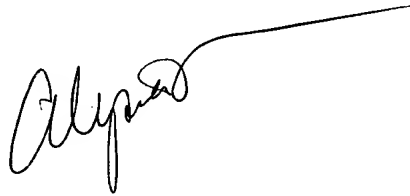
Claim(s) rejected: 1-3, 7-19, 21, 23, 25 and 26.

Claim(s) withdrawn from consideration: 4-6, 20, 22 and 24.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): 35 U.S.C. 102(b) rejection of claims 1, 2, 7-11 and 14 over US 5,747,049.

Continuation of 5. does NOT place the application in condition for allowance because: it does not overcome all of the 35 U.S.C. 112, 2nd paragraph rejections or all of the prior art rejections. All of the arguments presented by Applicant have already been addressed in paper no. 7. As to Applicant's argument that US 5,567,420 (420) fails to disclose non-emulsion gels, the reference does not require that the gels contain oil or that the gels are emulsions. The abstract and claim 1 of US '420 clearly distinguish gels from water and oil emulsions. Applicant argues that US 5,424,070 (070) does not teach equivalence of sodium behenate and sodium stearate. US '070 discloses at column 4, lines 30-35, that the composition is gelled with sodium salts of fatty acids of C12-C22 carbon chain length. Although, US '070 discloses a mixture of fatty acids soaps at column 6, line 61 to column 7, line 33, this is a preferred embodiment. The entire disclosure of a reference is prior art. A reference is not limited to its preferred embodiments or working examples. Behenic acid and stearic acid are homologs that differ only by 4 carbon atoms. One skilled in the art would reasonably expect similar results when substituting sodium behenate for sodium stearate because close structural similarity of the reference compound suggests the claimed compound. It is the Examiner's position that US '070 discloses that sodium salts of fatty acids as described above are equivalent.



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